

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

MARIO MUNIZ,

Plaintiff,

v.

Cause No. _____

**PANDA EXPRESS, INC, a Foreign
Corporation, CECILLE GONZALES,
IZEK LEWIS, JACOB GARCIA, and
ALEXA MENDOZA**

Defendants.

**FIRST AMENDED
COMPLAINT FOR PERSONAL INJURY**

COMES NOW the Plaintiff, Mario Muniz, by and through his attorneys, Smith Templeman Law Firm, LLC (Roger I. Smith), and for his Complaint for Personal Injury states as follows:

1. Mario Muniz (“Plaintiff”) is a resident of Albuquerque, Bernalillo County, New Mexico.
2. Panda Express, Inc (“Panda”) is a California Corporation that is authorized to, and does business in Albuquerque, Bernalillo County, New Mexico, and which has a registered agent for service of process in Espanola, New Mexico.
3. Cecille Gonzales, Izak Lewis, Jacob Garcia, and Alexa Mendoza (“employee defendants”) are, upon information and belief, residents of Albuquerque, Bernalillo County, New Mexico, and were employees of Defendant Panda at the time of the occurrence that gives rise to this cause of action.

4. The events and transactions giving rise to this cause of action occurred in Albuquerque, Bernalillo County, New Mexico.

5. On or about January 18, 2020, Plaintiff was a business invitee of Defendant Panda and he was at its restaurant that is located at 3601 Bosque Plaza Lane in Albuquerque, New Mexico.

6. After having purchased his food, Plaintiff exited the restaurant through the door on the North side of the restaurant.

7. At all times material to this action, Plaintiff was exercising reasonable care for his own safety, and the safety of others.

8. As Plaintiff was walking out of the restaurant Plaintiff slipped on some ice that had formed on Defendant Panda's property causing him to fall and suffer injury.

9. The employee defendants, who were employees of Defendant Panda, at the time of the fall, and Defendant Panda had a duty to exercise reasonable care to ensure that the premises that was owned by Panda was safe for all of those who were present.

10. The defendants breached their duty of care and were negligent because they failed to inspect and maintain the property in a safe condition, and placed a liquid substance, or allowed a liquid substance to remain on the property in conditions that would allow the substance to freeze and become slippery ice. They were further negligent in their failure to warn the users of the premises of the danger posed by the ice.

11. Defendant Panda, as the owner of the premises owed a duty to the public to properly screen, train and supervise its employees so as to keep its premises safe for its customers.

12. Defendant Panda breached its duty and was negligent in its failure to properly screen, train and supervise its employees to inspect for dangerous conditions, maintain the property to remedy or avoid dangerous conditions, and to warn Panda customers of the existence of dangerous conditions.

13. As a direct result of the negligence of Defendant Panda and the Employee defendants, Plaintiff suffered damages, which include, but are not limited to:

- a. past and future pain and suffering,
- b. medical expenses,
- c. lost wages and lost opportunities,
- d. permanent impairment.

14. In addition to its liability for its own negligence, Defendant Panda is liable for the negligence of its employees under the doctrine of *respondeat superior*.

WHEREFORE, Plaintiff prays this Court enter judgment for him and against Defendants in an amount to be proven at trial, for interest and Costs, and for such other and further relief as this Court deem just and proper.

Respectfully submitted:

SMITH TEMPLEMAN LAW FIRM, LLC

/s/ Roger I. Smith

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